IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 30TH JANUARY 2007 / 10TH MAGHA 1928

WP(C).No. 8273 of 2004(I)

PETITIONER:

K.R.VINAYACHANDRAN NAIR, SUB ENGINEER
(CIVIL), CIVIL SUB STATION, K.S.E.B.,
VADASSERIKARA, PATHANMTHITTA DISTRICT.

BY ADV. DR.K.P.SATHEESAN
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV
SRI.T.K.KAMALJITH

RESPONDENTS:
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1. K.S.E.B. REPRESENTED BY ITS SECRETARY,
VYDHUTHI BHAVAN, PATTOM, THIRUVANANTHAPURAM.

2. THE CHIEF ENGINEER (H.R.M.) VYDHUTHI
BHAVAN, PATTOM, THIRUVANANTHAPURAM.

BY ADV. SRI.N.N.SUGUNAPALAN(SR.)SC,KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 8273/04

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1	COPY OF BOARD ORDER NO.C1/12877/81 DATED 27/05/1981.
EXT.P2	COPY OF G.O.(P) NO.274/70/FIN. DATED 29/04/1970.
EXT.P3	COPY OF THE NOTIFICATISON DATED 30/01/1996.
EXT.P4	COPY OF THE JUDGMENT IN WP(C) NO.35423/03 DATED 11/11/2003.
EXT.P5	COPY OF THE ORDER NO.LAS-1-21862/03 DATED 20/02/2004.
EXT.P6	COPY OF JUDGMENT IN CIVIL APPEAL NO.1257/90 DATED 21/02/1990.
EXT.P7	COPY OF JUDGMENT IN O.P.NO. 7378/93 DATED 20/06/1995.
EXT.P8	COPY OF JUDGMENT IN OP NO.14224/96 DATED 20/09/2001.
EXT.P9	COPY OF JUDGMENT IN OP NO. 16143/98 DATED 06/09/2002.
EXT.P10	COPY OF JUDGMENT IN O.P. NO. 3186/03 DATED 29/01/2003.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 8273 of 2004

Dated, this the 30th day of January, 2007

J U D G M E N T

This writ petition is filed challenging Ext.P5 order issued by Secretary, KSEB, declining promotion to the petitioner while he was on leave for 15 years for employment abroad. The petitioner joined as a Tracer in the KSEB and prior to going on leave he was promoted as 2nd Grade Overseer. However, petitioner went on leave to take up employment abroad on 27/05/1981, initially for three years and thereafter leave was extended until 1996, when petitioner returned and joined duty as 2nd Grade Overseer. According to the petitioner, he was entitled to promotion during leave period by virtue of Ext.P2 Government Order dated 29/04/1970. However, learned Standing Counsel for the KSEB referred to appendix XII A of K.S.R., which provide rules for grant of leave without allowances for taking up employment abroad or within India. Clause 10 of the said appendix makes it clear that the rule apply to those who have gone on leave after 16/12/1983 or those whose leave have been extended after the said date. Note to the said rule makes it clear that the notification produced as Ext.P2 applies only to those to whom, the above rules do

not apply. The question therefore to be considered is whether the petitioner is covered by Ext.P2 or by the Rule. Since the petitioner's leave was extended after 16/12/1983, petitioner is governed by Rule 10, and so much so, Ext.P2 does not apply. Consequently, the view taken by the KSEB in the impugned order is perfectly in order. Therefore, this writ petition is devoid of any merit and is accordingly dismissed.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg